

Idaho Special Education Manual 2007 *updated*

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Page number change:

Chapter 4: Documents

Documentation of Adverse Effects on Educational Performance for Students with Speech/Language Disorder 70

Text removed:

Chapter 9: Private ~~and Home~~ School Students

ACRONYMS AND ABBREVIATIONS

Page number changes.

LEGAL CITATIONS

No changes to this chapter.

GLOSSARY

Page number changes.

Text changed:

Elementary school. The term ‘elementary school’ means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law, 34 CFR §300.13. An elementary school includes a grade configuration of grades ~~Kindergarten (K) through six (6)~~ *one(1) through eight (8)* inclusive, or any combination thereof, *Idaho Code 33-119*.

CHAPTER 1 OVERVIEW

No changes to this chapter.

CHAPTER 2 FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

Text inserted:

Section 2. Provision of FAPE

A. District Obligation

3. *A free appropriate education shall be available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course, and is advancing from grade to grade.*

Text changed:

Section 2. Provision of FAPE

B. Limit to District Obligation

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2. ~~Home-school students with disabilities are not entitled to special education or related services unless dually enrolled in the district for content area subjects that are impacted by the student's disability. The specific services provided to the student are identified on the Individual Education Program (IEP). See Chapter 5 for information on the IEP requirements.~~
Students who are home schooled and dually enrolled are considered private school students for the purposes of dual enrollment. The same procedures would be available to these students as parentally placed private school students who are dually enrolled.

CHAPTER 3 CHILD FIND

Text changed:

Section 3. Identification

B. General Education Intervention (Early Intervening Services)

~~Every school in Idaho shall develop a Continuous Improvement Plan (CIP) as part of the accreditation process. This plan shall address how the school will provide three tiers of instruction in some core academic subjects in order to meet the academic needs of all students. These three tiers of instruction include core, supported, and intensive. To learn more about each of these levels of instructional intervention see "The Three-Tiered Problem Solving Model" in Appendix 3.~~

Under the LEA funding option, early intervening services are services for K-12 students who need additional academic and behavioral support to succeed in the general education environment. When the a school's screening process reveals that a student or groups of students are at risk of not meeting the Idaho Content Standards, the ~~school~~ general education problem-solving team shall consider the students' need for "supported" instructional interventions in order to help the students succeed. These interventions are referred to as early intervening services or general education interventions, accommodations, and strategies.

~~Under the LEA funding option, early intervening services are services for K-12 students who need additional academic and behavioral support to succeed in the general education environment. These services shall be established by a problem-solving team.~~ It is important to remember that students who receive early intervening services are not currently identified as needing special education or related services and do not have a right to FAPE. Therefore, the IDEA 2004 procedural safeguards are not applicable at this time.

Districts shall implement coordinated services and activities that involve providing educational and behavioral evaluations, services, and supports. These services may also include professional development for teachers and other staff to enable them to deliver scientifically based academic and behavioral interventions *including scientifically based literacy instruction, and where appropriate, instruction on the use of adaptive and instructional software.* Early intervening services should be based on whole-school approaches such as; the three-tiered model, scientifically based curriculum and instruction, positive behavior supports, and a response to intervention system.

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If a district chooses to use up to 15% of Title VI-B federal funds for Early Intervening Services for student in K-12 who are not currently identified as needing special education but who need additional support in the general education environment, additional requirements may apply that will affect maintenance of effort.

If a district is found to have a significant disproportionate representation in special education, there are additional requirements for use of funds in Early Intervening Services. Please see Chapter 10 for more information on Early Intervening Services.

~~*Although problem-solving activities are an important part of the system, they cannot be used to delay processing a referral for consideration of a special education evaluation where immediate action is warranted. Either a parent or a public agency may initiate a request for an initial evaluation.*~~

Section 3. Identification

B. General Education Intervention (Early Intervening Services)

3. Interventions

- ~~c. d. documentation of the success or failure of accommodations and interventions shall be reviewed and discussed by the problem-solving team.~~

Section 3. Identification

B. General Education Intervention (Early Intervening Services)

4. Problem-Solving Team Decisions Following General Education Intervention

~~*If a district chooses to use up to 15% of Title VI-B federal funds for Early Intervening Services for student in K-12 who are not currently identified as needing special education but who need additional support in the general education environment, additional requirements may apply that will affect maintenance of effort.*~~

~~*If a district is found to have a significant disproportionate representation in special education, there are additional requirements for use of funds in Early Intervening Services. Please see Chapter 10 for more information on Early Intervening Services.*~~

~~*Although problem-solving activities are an important part of the system, they cannot be used to delay processing a referral for consideration of a special education evaluation where immediate action is warranted. Either a parent or a public agency may initiate a request for an initial evaluation.*~~

CHAPTER 4 EVALUATION AND ELIGIBILITY

Text inserted:

Section 1. Evaluation Team

The evaluation team is a group of people outlined by IDEA 2004 with the responsibility to make decisions regarding evaluation, assessments, and eligibility. This team includes the same membership as the individualized education program (IEP) team (although not necessarily the same individuals) and other qualified professionals as needed to ensure that appropriate and informed decisions are made. The specific composition of the evaluation team reviewing existing data will vary depending upon the nature of the student's suspected

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disability and other relevant factors. The parent and/or adult student is a member of the evaluation team and must be provided an opportunity to provide input and participate in making team decisions. *The evaluation team may conduct its review without a meeting unless the parent /adult student requests that a meeting be held.*

Text inserted:

Section 3. Written Notice and Consent for Assessment

B. Consent Requirements

Consent for initial evaluation

4.

- b. the rights of the parents of the child have been terminated in accordance with Idaho law; *or*

Text inserted:

Section 3. Written Notice and Consent for Assessment

B. Consent Requirements

Consent for initial evaluation

5.

- b. At such time that the problem solving team has determined that the student is suspected of having a disability and shall be considered for special education services.

Note: If using an RTI process, there shall be documentation that the parent of the student was notified about the State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided, the strategies for increasing the student's rate of learning, and the parent's right to request an evaluation. This documentation should be a part of the RTI process and may be documented on the intervention plan used by the district.

Text changed:

Section 3. Written Notice and Consent for Assessment

B. Consent Requirements

Consent and/or Written Notice for Reevaluation

- 2. If the parent refuses to consent to the reevaluation, the district is not required to, but may pursue the reevaluation using mediation or a due process hearing. ~~If the mediation,~~ *If the district pursues the override provision and that* results in consent to assess, or if a hearing officer's decision indicates that assessment is appropriate and there is no appeal, then the student may be assessed. However, the district does not violate its obligations to provide FAPE if it declines to pursue the evaluation.

Text changed:

Section 6. Reevaluation and Continuing Eligibility

E. Eligibility Report for Reevaluations

The evaluation team is required to prepare an *Eligibility Report* detailing how review of existing data demonstrates that the student continues to meet eligibility requirements

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even if no new assessments were conducted. The report ~~must~~ *shall* address each required eligibility component and include results of previous assessments if they are being used to determine eligibility. Refer to Section 5 of this chapter for *Eligibility Report* requirements.

Text inserted:

Section 7. State Eligibility Criteria

I. Learning Disability

2. Additional Requirements Specific to Response to Intervention

Resistance to General Education Intervention

The student has demonstrated significant resistance to general education interventions. The student's actual rate of learning is lower than reasonably expected rate of learning, despite scientific, research-based interventions that have been attempted for an adequate period (*generally deemed 8-12 weeks*).

Text inserted:

Section 7. State Eligibility Criteria

I. Learning Disability

2. Additional Requirements Specific to Response to Intervention

Documentation of RTI process shall be done through an intervention plan and graphs.

The components that shall be represented on the intervention plan are as follows:

- a. the targeted skill, including the present level of performance and a measurable goal*
- b. the scientific, research based intervention used, including intensity, frequency, and duration*
- c. evidence that the student does not achieve adequately for his or her age or to meet Idaho grade level Content Standards given interventions typical in general education and a summary of significant resistance to those general education interventions, including that the resistance is on-going and severe and the student requires resources beyond general education alone to benefit from instruction*
- d. documentation from two or more measures, one of which is a curriculum based measure, indicating the discrepancy from peers' performance on skills*
- e. An observation documenting the student's academic performance and behavior in the areas of concern*

The graph shall include, among other relevant components, an aimline, trendline, phaselines, and decision rules.

CHAPTER 5 INDIVIDUALIZED EDUCATION PROGRAMS

Page number changes.

Text removed:

Section 4. IEPs for Transfer Students

A. Transfer from an Idaho School District

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When a student with a disability transfers school districts with a current IEP in Idaho, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent and /or adult student, until such time as the district adopts the previously held IEP or develops, adopts, and implements a new IEP. The receiving district shall promptly request records from the sending district *and once the district has formally received a request for a student's record from another Idaho district, the district shall forward copies or the original documents within 10 days of the request.*

~~*If a district has formally received a request for a student's record from another Idaho district, the records manager should electronically transmit or overnight mail the IEP and Eligibility Report within 2 days of the notification. The rest of the file may follow by U.S. mail as soon as possible. If originals are sent, the district shall maintain a copy for audit purposes.*~~

Text removed:

Section 4. IEPs for Transfer Students

B. Transfer from an Out-of-State District

When a student with a disability transfers from out of state to an Idaho school district with a current IEP in that other state, the district shall provide the student with FAPE. This includes services comparable to those described in the previously held IEP, in consultation with the parent and /or adult student, until such time as the district conducts an evaluation, if determined necessary, and develops, adopts, and implements a new IEP. ~~*Within 2 school days, the receiving district shall request records from the sending district.*~~

CHAPTER 6 LEAST RESTRICTIVE ENVIRONMENT

No changes to this chapter.

CHAPTER 7 DISCONTINUATION OF SERVICES, GRADUATION, AND GRADING

Text removed:

Section 2. Graduation

A. Individualized Education Program (IEP) Team Requirements regarding Graduation

4.

a.

- 3) Accommodations made to any district or state graduation requirement shall be stated in the student's IEP. ~~*should there be a statement that if the student meets the accommodated requirements they will be entitled to receive a regular diploma terminating their entitlement to FAPE?*~~

CHAPTER 8 CHARTER SCHOOLS

Page number changes.

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CHAPTER 9 PRIVATE SCHOOL STUDENTS

Page number changes.

Text removed:

Chapter Title: Private ~~and Home~~ School Students

Text added:

Section 1: Definitions *of Private School Placements*

Text changed:

Section 4. Dual Enrollment of Private School Students by Parents

According to Idaho Code, parents of private school students “shall be allowed to enroll the student in a public school for dual enrollment purposes.” Private school students who are dually enrolled are considered to be nonpublic school students. The district ~~must~~ *shall* allow private school students who are eligible for special education and who are otherwise qualified to participate in school programs under the dual enrollment law to:

1. enroll in general education courses under the same criteria and conditions as students without disabilities; and ~~or~~
2. ~~have the opportunity to receive special education and related services at the public school site.~~ *receive accommodations in the general education courses for which they are enrolled on a 504 plan, if needed.*

~~When dually enrolled, private school students who meet eligibility requirements for special education under the IDEA 2004 must receive services in conformance with an IEP or SP. Private school students may not dually enroll solely for special education.~~ The dual enrollment statute does not establish an entitlement *to FAPE* for a student with a disability ~~to (a) receive special education and related services at the private school or (b) receive services that would not be provided if the student were enrolled in public school. This means that there is no individual right to receive some or all special education services that the student would receive if enrolled in public school.~~

The reporting of attendance for private school students in the district is allowed under dual enrollment. If a student attends at least 2.5 hours per week without rounding hours, he or she ~~must~~ *shall* be included in the weekly aggregate attendance. The average daily attendance (A.D.A.) is computed as .5 if the aggregate weekly hours are 2.5 or greater but less than 4.0 hours. When there are 4.0 hours or greater, divide by 4 to get the A.D.A.

Dually enrolled private school students ~~with an SP will be included on the district's regular December 1 Child Count for the purpose of generating federal special education funds.~~ *could be eligible to receive services that have been agreed upon through the district and private school consultation process. These services would be delivered through a Service Plan.*

Text changed:

Section 5. Unilateral Placement of Student by Parents When FAPE is an Issue

B. Denial or Reduction of Reimbursement to the Parent

Reimbursement ~~must~~ *shall* not be reduced or denied under any of the following circumstances:

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CHAPTER 10 IMPROVING RESULTS

Text changed:

Section 3. Personnel

C. Paraprofessionals, Assistants, and Aides

6. ~~Provide instructional services~~ Assist in provision of instructional services only under the direct supervision of a certified teacher or related service provider.

Text changed:

Section 3. Personnel

F. Professional Development Plan

To the extent the district determines it is appropriate, paraprofessional personnel may use the technical assistance and training activities offered by the district or SDE to fulfill part of the Standards for Paraprofessionals Supporting Special Needs Students. See pages ~~147-146~~ 151-160 for a list of the standards.

CHAPTER 11 PROCEDURAL SAFEGUARDS

Text changed:

Section 2. Domestic Considerations

C. Adult Students and the Transfer of Rights

3. Following a Determination Concerning the Transfer of Rights

- c. If rights have transferred, the ~~adult student or district may invite the parent to IEP team meetings because he or she is knowledgeable about the student, district shall continue to provide notices to the parent,~~ but nothing under the IDEA 2004 requires parent participation in the process.

Text changed:

Section 3. Informed Consent

D. Refusal to Give Consent

At times, a parent and/or adult student may refuse to give written consent for an assessment or the release of information that the district believes is necessary to ensure FAPE ~~during the reevaluation process. The district may continue to pursue the action by using SDE mediation and/or requesting a due process hearing. If the hearing officer determines that the action is necessary, and the parent and/or adult student does not appeal the decision, the district may proceed with the proposed action.~~

If the parent does not provide consent for the reevaluation, the district may choose not to pursue SDE mediation and/or requesting a due process hearing if the district determines that the existing data does not continue to support the determination of eligibility for special education services. In this case the district must provide the parent with written notice of the proposed action to discontinue the provision of FAPE to the student.

The district may also choose, based on existing data, to pursue the reevaluation through SDE mediation and/or by requesting a due process hearing. If the hearing officer determines that the action is necessary, and the parent and/or adult student does not

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appeal the decision, the district may proceed with the proposed action. The district shall provide the parent with written notice of the proposed actions.

The district ~~must~~ shall secure written consent for the initial provision of special education and related services. There is no mechanism available to overturn a parent's/adult student's decision ~~to not to provide written consent or failure to respond to a request for such consent.~~ *for initial evaluation or initial provision of services. In the case of an initial evaluation or initial provision of services, if a parent and/or adult student fails to respond to reasonable measures to gain consent or does not consent in such an instance,* the district cannot be charged with failing to provide FAPE to the student and is not required to convene an IEP meeting or develop an IEP for special education or related services.

Text changed:

Section 3. Informed Consent

E. Failure to Respond to a Request for Consent Regarding Reevaluation Assessment

When a parent and/or adult student fails to respond to reasonable measures taken by the district to obtain written consent to determine continued eligibility, the district may proceed with the evaluation. The district ~~must~~ *shall* have a record of its attempts to gain consent by documenting telephone calls made or attempted, correspondence sent, or visits made to the home or place of employment. *Failure to respond is not the same as refusing consent for reevaluation.*

Text inserted:

Section 4. Written Notice

D. Written Notice is Not Required

4. Notice is not required if outside observation is in relation to teacher's general practices.

CHAPTER 12 DISCIPLINE

Page number changes.

CHAPTER 13 DISPUTE RESOLUTION

Page number changes.

Text inserted:

Chapter Contents

Form for Filing a Formal Complaint..... 237

Text changed:

Section 2. Mediation

B. Mediation Policies

- 1. Disputes involving weapons, drugs, or physical/sexual abuse are not acceptable cases for mediation.*
- 1. 2. No video or audio recording of the mediation proceedings will be made.*

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2. ~~3.~~ Each party is limited to no more than three participants and shall designate a person who has the authority to make final resolution decisions.
3. ~~4.~~ The district shall have at least one representative present who has the authority to commit resources.
4. ~~5.~~ Because mediation is a non adversarial process that offers the parties the opportunity to communicate directly with each other, legal representation during a mediation session is strongly discouraged.
5. ~~6.~~ Except for the signed agreement, confidentiality pledge, and mediator evaluation forms, all notes or records taken during the proceedings will be collected and destroyed by the mediator at the conclusion of the mediation session.

Text changed:

Section 4. Due Process Hearings

A request for a due process hearing may be made by either a parent and/or adult student or the district.

A parent and/or adult student ~~or district~~ may file a request for hearing with ~~either the district or the Dispute Resolution Coordinator at the SDE; the other party.~~ The request shall be mailed, faxed, or hand delivered. ~~If When~~ the request is filed with the district, the parents/adult student must send copies to the Dispute Resolution Coordinator at the SDE. ~~and the other party. If the request is made to the SDE, the parent and/or adult student should send copies to the district.~~

~~A district may file a request for hearing with the parent and/or adult student with a copy to the Dispute Resolution Coordinator at the SDE. If the District files a request for hearing with the SDE a copy must be sent to the parent and/or adult student.~~

All applicable timelines for due process hearing and resolution sessions will start when the request has been filed with the other party and the SDE.

CHAPTER 14 FORMS

Text inserted:

Chapter Contents

- IEP LRE Placement and Written Notice *Preschool* Students *Ages 3-5* Form 430
- SP LRE Placement and Written Notice *Preschool* Students *Ages 3-5* Form 510

Changes to Form:

- Form 350 Consent for Assessment
- Form 410 Individualized Education Program
- Form 430 IEP LRE Placement & Written Notice Students Ages 3-5
- Form 490 Service Plan